

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.

Reserved on: 23.08.2024  
Pronounced on: 30.08.2024

1. CWP-15641-1992

M/S THE PRINTERS HOUSE LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

2. CWP-3848-1993 (O & M)

M/S BHARTIA INDUSTRIES LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

3. CWP-13027-1993

M/S INDO LOWENBRAU BREWERIES LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

4. CWP-11914-1995

M/S ESCORTS TRACTORS LTD., FARIDABAD ....Petitioner

VERSUS

MUNICIPAL CORPOATION, FARIDABAD AND OTHERS  
.... Respondents

5. CWP-11913-1995

M/S ESCORTS TRACTORS LTD., FARIDABAD ....Petitioner

VERSUS

THE MUNICIPAL CORPORATION, FARIDABAD AND OTHERS  
.... Respondents

6. CWP-5486-1994

M/S KELVINATOR OF INDIA LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

7. CWP-15642-1992

THE PRINTERS HOUSE LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

8. CWP-11915-1995

M/S ESCORTS TRACTOR LTD. ....Petitioner

VERSUS

THE MUNICIPAL CORPORATION, FARIDABAD AND OTHERS  
.... Respondents

9. CWP-7073-1993

M/S ESCORT TRACTORS LTD. ....Petitioner

VERSUS

CHIEF ADMINISTRATOR, FARIDABAD COMPLEX  
ADMINISTRATION AND ORS. ... Respondents

10. CWP-7252-1993

M/S ESCORT TRACTORS LTD. ....Petitioner

VERSUS

CHIEF ADMINISTRATOR, FARIDABAD COMPLEX  
ADMINISTRATION AND ORS. ... Respondents

11. CWP-12027-2003

ESCORTS JCB LTD. ....Petitioner

VERSUS

THE STATE OF HARYANA AND ORS. .... Respondents

12. CWP-12944-1994

BIRLA KENT-TYLOR LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

13. CWP-9276-1995

BIRLA KENT TAYLOR LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

14. CWP-3532-2012

MUNICIPAL CORPORATION, FARIDABAD ....Petitioner

VERSUS

FINANCIAL COMMISSIONER-CUM-PRINCIPAL SECRETARY  
AND ORS. .... Respondents

15. CWP-19470-2006

M/S AJANTA OFFSET AND PACKAGING LTD. ....Petitioner

VERSUS

MUNICIPAL CORPORATION FARIDABAD AND ORS.  
.... Respondents

16. CWP-14323-2000

M/S SONIA TEXTILE LTD. FARIDABAD ....Petitioner

VERSUS

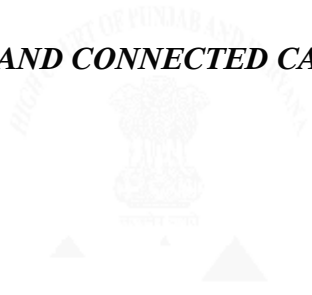
STATE OF HARYANA AND OTHERS .... Respondents

17. CWP-13782-1993

M/S CONTINENTAL ELECTRIC STORE ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents



18. CWP-491-1994

M/S VIPUL MOTOR PVT LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

19. CWP-2763-1995

M/S ESCORTS TRACTORS LTD. ....Petitioner

VERSUS

MUNICIPAL CORPOATION FARIDABAD AND ANR.  
.... Respondents

20. CWP-3043-1995

M/S ESCOTS TRACTOR LTD. ....Petitioner

VERSUS

MUNICIPAL CORPOATION FARIDABAD AND ANR.  
.... Respondents

21. CWP-3044-1995

M/S ESCOTS TRACTORS LTD. ....Petitioner

VERSUS

MUNICIPAL CORPOATION FARIDABAD AND ANR.  
.... Respondents

22. CWP-3045-1995

M/S ESCOTS TRACTOR LTD. ....Petitioner

VERSUS

MUNICIPAL CORPOATION FARIDABAD AND ANR.  
.... Respondents

23. CWP-2084-1996

M/S INDO LOWENBRAU BREWERIES LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

24. CWP-372-2015

M/S INDIAN OIL CORPORATION LIMITED RESEARCH &  
DEVELOPMENT CENTRE ....Petitioner

VERSUS

MUNICIPAL CORPORATION FARIDABAD AND ORS.  
.... Respondents

25. CWP-1313-2010

M/S PRINTERS HOUSE PVT. LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

26. CWP-1314-2010

M/S PRINTERS HOUSE PVT. LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

27. CWP-1308-2010

M/S PRINTERS HOUSE LTD. ....Petitioner

VERSUS

STATE OF HARYANA AND ORS. .... Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MR. JUSTICE SUVIR SEHGAL  
HON'BLE MRS. JUSTICE RITU TAGORE**

Argued by: Mr. Pankaj Jain, Senior Advocate  
(through Video Conferencing) with  
Mr. Divya Suri, Advocate  
Mr. Sachin Bhardwaj, Advocate  
Mr. Shakti Singh, Advocate  
Mr. Yogesh Kumar Mittal, Advocate  
for the petitioner (in CWP-15641-1992).

Mr. Rakshit Gupta, Advocate and

Ms. Manvi Arora, Advocate  
Mr. Rakesh Gupta, Advocate  
for the petitioner(s) (in CWP-15641, CWP-15642-1992,  
CWP-1313-2010, CWP-1314-2010 & CWP-1308-2010).

Mr. Adarsh Jain, Advocate  
Mr. Manu K. Bhandari, Advocate  
for the petitioner(s).

Mr. Baldev Raj Mahajan, Senior Advocate,  
Advocate General, Haryana with  
Mr. Ankur Mittal, Addl. A.G., Haryana  
Mr. Pradeep Prakash Chahar, Sr. DAG, Haryana  
Ms. Kushaldeep Kaur, Advocate  
for the respondent-State of Haryana.

Mr. Sapan Dhir, Advocate  
for the respondent – Municipal Corporation, Faridabad.

Mr. Anil Chawla, Advocate  
for respondent No. 1 -Municipal Corporation  
(in CWP-372-2015).

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**SURESHWAR THAKUR, J.**

1. Since all the writ petitions involve a common question of law relating to the constitutional vires of the Faridabad Complex (Regulation and Development) Act, 1971 (hereinafter for short called as the Act of 1971), as such, the said common question of law is decided through a common verdict.
2. The lead petition in the bunch of 27 writ petition(s) is CWP-15641-1992. The relief as claimed in the writ petition (supra) is extracted hereinafter.

*“Writ petition under Article 226 of the Constitution of India for issuance of appropriate writ, order or direction, declaring Sections 21 and 22 and enabling Sections of Faridabad Complex (Regulation and Development) Act, 1971 as well as schedule of Octroi Tax framed thereunder*

*being ultra vires of the Constitution and quashing the order/receipt dated 13.3.1992 (Annexure P-3)...”*

3. However, before proceeding to determine the validity of the espousal (supra), as raised in the lead writ petition (supra), it is deemed imperative to refer to the order of reference made on 19.05.1993, whereby the Division Bench of this Court after formulating the hereinafter extracted question of law, ordered that the said question of law be decided by a Full Bench of this Court.

*“An important question of law with regard to vires of Faridabad Complex (Regulation and Development) Act, 1971 is involved in these three writ petitions (Nos. 15641 and 15642 of 1992 and 3848 of 1993) on the ground that prior assent of the President was not obtained before introducing Bills in the State Legislature, as required under Article 304 (b) proviso.*

*After hearing counsel for the parties at some length, we are of the opinion that this important question of law should be authoritatively decided by a Full Bench. These writ petitions are admitted and we direct that the papers of these cases be laid down before the Hon'ble Chief Justice for constituting a Full Bench.”*

4. Consequently, under the orders of the Hon'ble Chief Justice, the instant Full Bench has been constituted.

5. All the counsels appearing today before this Court have been heard at length.

6. The judgment delivered by the Constitutional Bench of the Hon'ble Apex Court in case titled as ***Jindal Stainless Ltd. and Another Vs. State of Haryana and Others***, reported in ***2016 AIR (Supreme Court) 5617*** provides the beacon of light for rendering an answer to the

above formulated question of law. The answers as made by the Constitutional Bench of the Hon'ble Apex Court to the apposite reference made to it become extracted hereinafter.

*By majority the Court answers the reference in the following terms:*

- 1. Taxes simpliciter are not within the contemplation of Part XIII of the Constitution of India. The word 'Free' used in Article 301 does not mean "free from taxation".*
- 2. Only such taxes as are discriminatory in nature are prohibited by Article 304(a). It follows that levy of a non-discriminatory tax would not constitute an infraction of Article 301.*
- 3. Clauses (a) and (b) of Article 304 have to be read disjunctively.*
- 4. A levy that violates 304(a) cannot be saved even if the procedure under Article 304(b) or the proviso there under is satisfied.*
- 5. The compensatory tax theory evolved in Automobile Transport case and subsequently modified in Jindal's case has no juristic basis and is therefore rejected.*
- 6. Decisions of this Court in Atiabari, Automobile Transport and Jindal cases (supra) and all other judgments that follow these pronouncements are to the extent of such reliance over ruled.*
- 7. A tax on entry of goods into a local area for use, sale or consumption therein is permissible although similar goods are not produced within the taxing state.*
- 8. Article 304 (a) frowns upon discrimination (of a hostile nature in the protectionist sense) and not on mere differentiation. Therefore, incentives, set-offs etc. granted to a specified class of dealers for a limited period of time in a non-hostile fashion with a view to developing*



*economically backward areas would not violate Article 304(a). The question whether the levies in the present case indeed satisfy this test is left to be determined by the regular benches hearing the matters.*

*9. States are well within their right to design their fiscal legislations to ensure that the tax burden on goods imported from other States and goods produced within the State fall equally. Such measures if taken would not contravene Article 304(a) of the Constitution. The question whether the levies in the present case indeed satisfy this test is left to be determined by the regular benches hearing the matters.*

*10. The questions whether the entire State can be notified as a local area and whether entry tax can be levied on goods entering the landmass of India from another country are left open to be determined in appropriate proceedings.”*

7. The Hon'ble Apex Court while concluding that taxes simpliciter are not within the contemplation of part XIII of the Constitution of India and further that the word 'free' used in Article 301 not carrying the signification qua therebys there being permissibility against freedom from taxation, thus anviled the said conclusion, after making a detailed allusion to a catena of judgments as detailed therein. Subsequently, the essence of the reasonings' for the makings of the above answers to the apposite references become captured in paragraph No. 126 of the judgment rendered by the Constitutional Bench of the Apex Court, paragraph whereof, becomes extracted hereinafter.

*“126. In the light of what we have said above, we answer Question No.1 in the negative and declare that a non-*

*discriminatory tax does not per se constitute a restriction on the right to free trade, commerce and intercourse guaranteed under Article 301. Decisions taking a contrary view in Atiabari's case (supra) followed by a series of later decisions shall, therefore, stand overruled including the decision in Automobile Transport (supra) declaring that taxes generally are restrictions on the freedom of trade, commerce and intercourse but such of them as are compensatory in nature do not offend Article 301. Resultantly decisions of his Court in Jindal Stainless Limited(2) and anr. v. State of Haryana and ors. (2006) 7 SCC 241 shall also stand overruled."*

8. Be that as it may, the ire conundrum which requires an answer being meted thereto appertains to.

a) Whether clauses (a) and (b) of Article 304 of the Constitution of India, provisions whereof become extracted hereinafter are to be read conjunctively or disjunctively.

***304. Restrictions on trade, commerce and intercourse among States***

*Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law-*

*(a) impose on goods imported from other States or the Union territories any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and*

*(b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest:*

*Provided that no Bill or amendment for the purposes of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President.*

b) Whether in the event of a conclusion being amenable to be drawn that both are independent of each other.

c) Whether the impugned legislation, thus attracts theretos the mandate of clause (b) of Article 304 of the Constitution of India. If so, whether prior to the introduction of the assented thereto impugned legislation, in the State Legislature, rather in terms of the proviso (supra), thus the previous sanction of the President but was a constitutionally ordained necessity, for therebys the State Legislature being declared to be holding the apposite legislative competence, besides for the restriction(s) imposed thereunders on freedom of trade, commerce or intercourse with or within that State, being declared to be both reasonable as well as in public interest.

d) The answer to the conundrum (supra) becomes readily available from paragraph No. 70, 71, as carried in the verdict (supra) made by the Constitutional Bench of the Hon'ble Apex Court, paras whereof becomes extracted hereinafter, wherein, it has been declared that both clauses (a) and (b) are independent of each other.

*“70. That brings us to the question whether Clauses (a) and (b) have to be read conjunctively. It was contended on behalf of the dealers/assesseees that even when a tax in terms of Article 304 (a) is not forbidden being non-discriminatory, it may still constitute a restriction under Clause (b) thereof. The argument is that just because a tax passes muster under Clause (a) of Article 304 being non-discriminatory does not mean that the levy of such a tax is not a restriction on the freedom of trade, commerce and intercourse. It was contended that while a discriminatory*

*tax must be treated as a restriction by itself the reasonableness of a non- discriminatory tax will have to be seen by the President in terms of the Proviso to Clause (b). It was argued that Article 304(a) does not exhaust the universe in so far as levy of taxes is concerned for even when the law complies with the requirement of Clause (a), it may fail to pass the test of reasonableness and of public interest under Clause (b) in which event the President may decline the sanction for introduction of any Bill aimed at levying such a tax.*

*71. There is, in our opinion, no merit in any of the contentions noted above. Clauses (a) and (b) of Article 304 deal with two distinct subjects and must, therefore, be understood to be independent of each other. While Clause (a) deals entirely with imposition of taxes on goods imported from other States, Clause (b) deals with imposition of reasonable restriction in public interest. It is trite that levy of a tax in terms of Article 304(a) may or may not be accompanied by the imposition of any restriction whether reasonable or unreasonable. There is, in our opinion, no rationale in the contention that the legislature of a State cannot levy a tax without imposing one or more reasonable restrictions or that a law that is simply imposing restrictions in terms of Clause (b) to Article 304 must be accompanied by the levy of a tax on the import of goods. The use of the word 'and' between clauses (a) and (b) does not admit of an interpretation that may impose an obligation upon the legislature to necessarily impose a tax and a restriction together. The law may simply impose a tax without any restriction reasonable or otherwise or it may simply impose a reasonable restriction in public interest without imposing any tax whatsoever. It may also levy a tax and impose such*

*reasonable restriction as may be considered necessary in public interest. All the three situations are fully covered and permissible under Article 304 in view of the phraseology used therein. The word 'and' can mean 'or' as well as 'and' depending upon the context in which the law enacted by the legislature uses the same. Suffice it to say that levy of taxes do not constitute a restriction under Part XIII except in cases where the same are discriminatory in nature. Once Article 304 (a) is understood in that fashion, Clause (b) dealing with reasonable restrictions must necessarily apply to restrictions other than those by way of taxes. It follows that for levy of taxes prior Presidential sanction in terms of the proviso under Article 304(b) will be wholly unnecessary. This view is reinforced on the plain language of proviso to Article 304(b), which is limited to law relating to reasonable restrictions referred to in clause (b)."*

9. The reason for so concluding is but expressly stated therein, to arise from the occurrence of the coinage 'and', coinage whereof intervenes clause (a) and clause (b) of Article 304 of the Constitution of India. Resultantly, it has been echoed therein that the said coinage, does not admit of an interpretation whereby an obligation becomes cast upon the legislature, thus to necessarily impose a tax or a restriction together. Contrarily, the taxation law may simply impose a tax without any restriction reasonable or otherwise or it may simply impose a reasonable restriction in public interest without imposing any tax whatsoever. Furthermore, the legislature may also levy a tax and impose such reasonable restriction(s), as it may consider necessary in public interest.

10. Be that as it may, the word '*and*' segregating clauses (a) and (b) of Article 304 of the Constitution of India, but also yet becomes stated therein to be readable as '*or*' as well as '*and*', depending upon the context in which the law enacted by the legislature uses the same. Such restrictions envisaged in clause (b) of Article 304 of the Constitution of India, relate to restrictions other than those by levy of taxes.

11. The verdict (*supra*) with utmost candour expostulates the trite principle of law, that tax is a compulsory exaction and/or is an in segregable component of the sovereign power of the State, and thereby it does not permit of any *quid pro quo* being asked to be released to the tax payers. Therefore, the amplification therefrom, is that, the sovereign power of State, thus to impose taxes is contra-distinct vis-a-vis imposition of license fee, whereupon, the former does not permit of any askings being made by the tax payer appertaining to any apposite *quid pro quo* from the State, whereas, the imposition of license fee makes ordainment(s) upon the State to release but as an apposite *quid pro quo*, thus amenities to the payer of license fees.

12. Furthermore, there is also an expostulation of law in paragraph No. 129 of the verdict (*supra*), para whereof, becomes extracted hereinafter.

*129. Re. Question No.4 This question touching the constitutional validity of the impugned State enactments can be split into two parts. The first part which can be briefly dealt with at the outset is whether the constitutional validity of the impugned legislations has to be tested by*

*reference to both Articles 304(a) and 304(b) as contended by learned counsel for the assesseees or only by reference to Article 304(a) as argued by the States. In the light of what we have said while dealing with question No.1 we have no hesitation in holding that Article 304(b) does not deal with taxes as restrictions. At the risk of repetition, we may say that restrictions referred to in Article 304(b) are non-fiscal in nature. Constitutional validity of any taxing statute has, therefore, to be tested only on the anvil of Article 304(a) and if the law is found to be non-discriminatory, it can be declared to be constitutionally valid without the legislation having to go through the test or the process envisaged by Article 304(b). Should, however, the statute fail the test of non-discrimination under Article 304(a) it must be struck down for the same cannot be sustained even if it had gone through the process stipulated by Article 304(b). That is because what is constitutionally impermissible in terms of Article 304(a) cannot be validated and sanctioned through the medium of Article 304(b). Suffice it to say that a fiscal statute shall be open to challenge only under Article 304(a) of the Constitution without being subjected to the test of Article 304(b) either in terms of the existence of public interest or reasonableness of the levy.*

13. The salient nuance of the paragraph (supra), is that, in the event of levying of tax within the domain of clause (a) of Article 304 yet upon such a levy rather failing the constitutional test qua the imposition of tax thereunders, being non discriminatory, thereupon, even if the restrictions envisaged in clause (b) of Article 304, thus have undergone the process stipulated by the proviso appended thereunder, yet on the tax levied in terms of clause (a) of Article 304 of the

Constitution of India failing to withstand the test of the same being non discriminatory, thus any adherence to the proviso to clause (b), in the State legislature, thus in terms of clause (b) of Article 304 of the Constitution of India, rather imposing further reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as required by public interest, but would not endow any constitutionality to the levy of tax made in terms of Clause (a) of Article 304 of the Constitution of India.

14. In substance, if in a factual situation where though, clauses (a) and (b) of Article 304 of the Constitution of India are independent of each other, but when it also becomes stated in the above extracted paragraph, borne in the verdict (supra) rendered by the constitutional Bench of the Hon'ble Apex Court, qua the word 'and' segregating clauses (a) and (b) thus also being permissible to be read as 'or'. Therefore, as an apt illustration to the above scenario, when after imposition of taxes in terms of clause (a) of Article 304, thus subsequently in terms of clause (b) of Article 304 rather some purported reasonable restrictions are imposed, thereupon the precursor to clause (b) of Article 304, is but clause (a) of Article 304. Resultantly, for making clause (b) to surge to the fore front, but only in the factual situation (supra), the imposition of a constitutionally valid tax within the realm of clause (a) of Article 304, is but the constitutional *sine qua none*, thus for thereafter imposition of levies being made in terms of clause (b) of Article 304 of the Constitution of India, and, which is also so declared by the Constitutional Bench of the Hon'ble Apex Court.



15. Now for applying the above legal parameter to the facts at hand, it is of utmost necessity to cull out the impugned provisions, as become carried in the impugned assented to legislation. The said provisions, are borne in Section 21 and Section 22 of the Act of 1971, provisions whereof are extracted hereinafter.

***“21. Taxes which may be imposed.***

*(1) Subject to the rules and any general or special orders which the State Government may make in this behalf, the Chief Administrator may from time to time for the purposes of this Act, and in the manner directed by this Act, impose with the previous sanction of the State Government in whole of the Faridabad Complex or any part thereof the following taxes, namely :-*

*(a) a tax payable by the owner, on buildings and lands not exceeding fifteen per centum on the annual value thereof; Provided that in the case of lands and buildings occupied by tenants in perpetuity, the tax shall be payable by such tenants;*

*(b) a tax on persons practising any profession or art or carrying on any trade or calling in the Faridabad Complex.*

*Explanation :- A person in the service of the Government or holding office under the State Government or the Central Government or a local or other public authority shall be deemed to be practising a profession within the meaning of this clause;*

*(c) a tax payable by the owner on all or any class of vehicles other than motor vehicles, animals used for riding, draught or burden and dogs, when such vehicles, animals and dogs are kept within the Faridabad Complex;*

*(d) a tax payable by the employer on menial servants;*

*(e) a tax payable by the occupier of any building in respect of which the Administration has in the exercise of the powers conferred by [sections 162 to 169 of the Haryana Municipal Act, 1973][Substituted by Haryana Act No. 41 of 1973.]undertaken the house scavenging;*

*[(1-A) The duty on the transfer of immovable property, situated within the limits of Faridabad Complex, imposed, from time to time, by the State Government, in exercise of the powers conferred by sections 21 and 22, shall be collected by the Registrar or Sub-Registrar in the shape of non-judicial stamp paper at the time of registration of the documents. It shall be in addition to the duty imposed under the Indian Stamp Act, 1989, as in force for the time being in the State of Haryana. An intimation regarding the duty so collected shall be sent to the Administration immediately and the same shall be paid to the Administration.][Added by Haryana Act No. 16 of 1986.].*

*(2)Without prejudice to the provisions of sub-section (1), for the purpose of providing, maintaining or continuing any amenity in any area other than an urban estate in the Faridabad Complex, the State Government may levy such fees or tax as it may consider necessary which shall be in addition to any fee or tax for the time being leviable under any other law in respect of any site or building on the occupier thereof.*

*Explanation. - "Urban estate" means an area declared to be an urban estate under section 3 of the Punjab Urban Estates (Development and Regulation) Act, 1964.*

*(3) The State Government may by general or special order, published in the Official Gazette, exempt in whole or in part any class of persons or property from the payment of any tax or fee levied under sub-sections (1) and (2).*

(4) *The State Government may revoke exemption granted under sub-section (3) by an order published in the Official Gazette.*

**22. Procedure for the imposition of taxes.**

(1) *The Chief Administrator may send a proposal to impose, or increase the rate of, a tax or fee for the approval of the State Government.*

(2) *After the approval of the State Government has been conveyed, the Chief Administrator may invite objections from the residents of the Faridabad Complex by, -*  
(a) *issuing a public notice defining the nature and rate of tax or fee to be imposed or the increase in the rate of tax or fee and affixing the notice at the Administration office and other conspicuous places easily accessible to the residents;*  
(b) *causing a public notice to be published in at least two well circulated newspapers.*

(3) *Any person objecting to the proposed imposition or increase of tax or fee may, within thirty days from the date of publication of the said notice submit his objection in writing to the Chief Administrator.*

(4) *When the Chief Administrator has finally settled the proposal after consideration of objections, if any, he will forward the proposal to the State Government for final approval and publication in the Official Gazette.*

(5) *The State Government may sanction, modify or refuse to sanction the proposal or return it to the Chief Administrator for further consideration.*

(6) *The State Government, if satisfied with the proposal, shall notify the proposal and shall in the notification specify a date not less than thirty days from the date of the publication of the notification on which the tax or free shall come into force.*

*(7) A tax or fee leviable by the year shall come into force on the first day of January, on the first day of April, on the first day of July or on the first day of October in any year, and if it comes into force on any day other than the first day of the year by which it is leviable shall be leviable by the quarter till the first day of such year then next ensuing.*

*(8) A notification of the imposition of a tax or fee under this Act shall be conclusive evidence that the tax or fee has been imposed in accordance with the provisions of this Act. ..”*

16. Thought the levies or taxes contemplated therein, thus on a bare glance thereof, are not made after the imposition of taxes in terms of clause (a) of Article 304 of the Constitution of India, inasmuch as, despite no levy of taxes being made vis-a-vis goods imported from other States and Union Territories, yet ex-facie restriction(s) being created over freedom of trade and commerce or intercourse within the precincts of the Faridabad Municipal Corporation, rather through the employment of clause (b) of Article 304 of the Constitution of India. Significantly, thereby the State Legislature has segregated clause (b) of the Article (supra) and the said in terms of the verdict (supra) is permissible, as both clauses (a) and (b) are independent.

17. However, though the said restriction(s) are also in the garb of taxes being imposed vis-a-vis the tax subjects detailed therein. Consequently, the making of an insightful glance at the impugned legislation discloses that the calibrated therein taxing incidences but are through clever deployment of semantics, inasmuch as, the impugned provisions assign an empowerment to the Chief Administrator to

impose taxes, which *prima facie*, rather therebys directly or impliedly but in terms of clause (b) of Article 304 of the Constitution of India, purportedly impose reasonable restrictions on the freedom of trade, commerce or inter course within the State of Haryana, inasmuch as, within the territorial jurisdiction of the Municipal Corporation, Faridabad.

18. However, this Court is not required, to be determining whether the restrictions created in the form of the impugned taxes, through the assented to legislation are or are not reasonable or are in public interest, as thereby this Court would be travelling beyond the contours of the reference (*supra*). The said reference is confined to whether, if the assented to legislation becomes covered within purported permissible legislative domain of clause (b) of Article 304 of the Constitution of India, besides whether for the same donning an aura of legislative competence or it's conferring jurisdiction in the revenue to collect taxes in terms thereof, thus the same in terms of the proviso (*supra*) but before its introduction in the legislature of the State, did receive the sanction of the President.

19. It is not disputed that prior to the introduction of the assented to legislation in the legislature of the State, the same did not receive the sanction from the President. Therefore, since for all the reasons (*supra*), this Court has concluded that the impugned provisions, as carried in the assented to legislation, squarely fall within the domain of clause (b) of Article 304 of the Constitution of India. As such, when prior to the introduction of the impugned assented legislation, the

sanction of the President was required, whereas, it not being either asked for nor becoming granted. Resultantly the answer to the reference is in favour of the assesseees and against the revenue.

20. Accordingly, the writ petition(s) be listed before the Roster Bench concerned, for the makings of further decisions thereons.

21. A photocopy of this order be placed on the files of other connected cases.

**(SURESHWAR THAKUR)**  
**JUDGE**

**(SUVIR SEHGAL)**  
**JUDGE**

**(RITU TAGORE)**  
**JUDGE**

**30.08.2024**

kavneet singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No